

Doc Code: AP.PRE.REQ

PTO/SB/33 (07-09)

Approved for use through 07/31/2012. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) SAM1.PAU.64											
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on _____ Signature _____ Typed or printed name _____	Application Number 09/592,599	Filed 2000-06-12											
	First Named Inventor Dongyan Wang												
	Art Unit 2179	Examiner Mylinh T. Tran											
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <table border="0"><tr><td><input type="checkbox"/> applicant/inventor.</td><td>/MZ/</td></tr><tr><td><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</td><td>_____ Signature</td></tr><tr><td><input type="checkbox"/> attorney or agent of record. Registration number _____</td><td>Michael Zarrabian _____ Typed or printed name</td></tr><tr><td><input checked="" type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 39,886</td><td>(949) 223-9600 _____ Telephone number</td></tr><tr><td></td><td>2010-04-29 _____ Date</td></tr></table> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p> <p><input type="checkbox"/> *Total of _____ forms are submitted.</p>				<input type="checkbox"/> applicant/inventor.	/MZ/	<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)	_____ Signature	<input type="checkbox"/> attorney or agent of record. Registration number _____	Michael Zarrabian _____ Typed or printed name	<input checked="" type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 39,886	(949) 223-9600 _____ Telephone number		2010-04-29 _____ Date
<input type="checkbox"/> applicant/inventor.	/MZ/												
<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)	_____ Signature												
<input type="checkbox"/> attorney or agent of record. Registration number _____	Michael Zarrabian _____ Typed or printed name												
<input checked="" type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 39,886	(949) 223-9600 _____ Telephone number												
	2010-04-29 _____ Date												

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

**UNITED STATES DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE
PATENT EXAMINATION BRANCH**

In Re application of:)	Examiner: Tran, Mylinh T.
Wang, et al.)	
)	Art Unit: 2179
For: HOME NETWORK DEVICE)	
INFORMATION ARCHITECTURE)	Confirmation No.: 7070
)	
Application No.: 09/592,599)	
)	
Filed: June 12, 2000)	

ARGUMENTS IN SUPPORT OF PRE-APPEAL BRIEF REQUEST FOR REVIEW

MS AF
Commissioner of Patents
PO Box 1450
Alexandria, VA 22313-1450

Dear Sir/Madam:

Applicant hereby files these Arguments in support of the accompanying Pre-Appeal Brief Request for Review, filed along with a Notice of Appeal and applicable fees, in the above-referenced patent application. All of the pending Claims 1-6, 8-14, 18-24 and 28-32 have been finally rejected. All of the rejections are respectfully traversed for at least the following reasons.

It is respectfully submitted that there are errors and omissions in the rejections of the independent claims 1, 10 and 20 (and claims dependent therefrom) under 35 U.S.C. §102(e) as being anticipated by USPN 6,781,518 issued to Hayes et al. ("Hayes"); and in the rejections of the claims 4-5, 8-9, 13-14, 18-19, 23-24, 28 and 30 under 35 U.S.C. §103(a) as being in unpatentable over Hayes in view of USPN 5, 7,574,693 issued to Kemink et al. ("Kemink"). For brevity, the following discussion is focused on the independent claims.

1. The Final Office Action of December 29, 2009 (hereinafter “FOA”) paper no. 20091217, pages 2-4, and Advisory Office Action of March 26, 2010 (hereinafter “AA”) paper no. 20100309, page 3, rejected independent claims 1, 10 and 20 under 35 U.S.C. §102(e), arguing that Hayes meets limitations of claims 1, 10 and 20 as asserted in the office action.

2. It is respectfully submitted that for at least the following reasons, the conclusions in said FOA and AA regarding the teachings of Hayes are: in error, inconsistent and lacking.

A. Hayes is directed a universal remote control 10 to control interconnected devices (i.e., TV 12, Audio Amp. 54, Digital cable 16, VCR 14, DVD 56, remote control interface 18, CD player 58), in an entertainment system 11 on an interconnection 30 (see Hayes, Figures, 1A, 1B). The Examiner argues that Hayes discloses “discovering a plurality of devices that are currently connected to the network” (claim 1), “discovering the plurality of devices that are currently connected to the physical layer of the network” (claim 10), and “discovering a plurality of devices that are currently connected to the network in an autonomous manner” (claim 20). Applicant respectfully disagrees. Hayes clearly discloses that after the initial set up of the entertainment system 11, the function identity and operating parameters are established (Hayes, col. 4, lines 43-45). Hayes further discloses that the device activated setup (DAS) disclosed in U.S.P.N. 6,157,319 is implemented. The DAS is a manual set up that is user initiated. No discovery is needed, nor required. Moreover, Hayes requires the remote control has, prior to any communications with a target device, a stored set of commands for controlling functions of the target device. Therefore, Hayes fails to teach discovering devices currently connected to the network.

B. It is asserted by the Examiner in the FOA that Hayes discloses “obtaining information for commanding and controlling at least one of the plurality of devices by at least one other device currently connected to physical layer of the network.” Applicant respectfully disagrees. At col. 2, lines 35-50, relied on by the Examiner in the FOA for this argument, Hayes only teaches obtaining *capability* information from the remote controlled devices. Capability information describes what a device is capable of doing, but this is not information for commanding and controlling a device. Further, because the remote control 10 of Hayes already

includes a stored set of commands for controlling the target devices without any need for communication with the devices (i.e., TV 12, Audio Amp. 54, Digital cable 16, VCR 14, DVD 56, remote control interface 18, CD player 58), Hayes does not teach or require “obtaining information for commanding and controlling at least one of the plurality of devices by at least one other device currently connected to physical layer of the network” as required by claims 1, 10 and 20.

C. Accordingly, Hayes does not teach “generating a graphical user interface *based at least on the obtained information*, the user interface including one or more references associated with each of the devices currently connected to the network” (emphasis added) as required by claims 1, 10 and 20 since Hayes does not obtain this information from the targeted device.

3. Further, the Examiner’s rejections omit one or more essential elements necessary for a *prima facie* rejection.

A. The FOA asserts that Hayes teaches “the information includes at least a device name and service type”, (claims 1, 10 and 20). Applicant respectfully disagrees because Hayes (col. 8, lines 12-25, relied on in the FOA) only discloses a defined set of commands for a device type. A device type is a generalized definition for devices of a specific type, and Hayes does not refer to a specific device name or service type. For example, if a first television (TV) is in a bedroom, and another TV is in a family room, according to Hayes, both TVs would have the same type, even though they have different identities. Distinguishable, it is intuitive that a device name can differentiate a TV in a bedroom and a TV in a family room. Therefore, the device type and set of commands in Hayes do not disclose a device name and service type. Thus, Hayes does not teach or suggest said claimed limitations.

B. Hayes does not teach “one or more references associated with each of the devices currently connected to the network,” claims 1, 10, and 20). Hayes teaches an infrared remote controlled entertainment system 11 and discloses (col. 11, lines 15-32) a user interface on remote control 10 and an interface adaptor 18 communicating with the bus 30, where the interface adaptor 18 is a remote control interface (see Hayes, Figs. 1A-1B, 8A-8D). The interface of Hayes is not based on a hyperlink system. Hayes does not associate references with each device

since Hayes is not based on a hyperlink system. Distinguishable, Applicant's claimed invention is based on a hyperlink system and requires, in part, "one or more references associated with each of the devices currently connected to the network."

C. The FOA asserts that Hayes teaches "displaying the generated user interface such that a user can use each reference of the displayed user interface to access each device" (claims 1, 10, and 20). Applicant respectfully traverses since Hayes does not teach the limitation of "references." Hayes, at col. 10, lines 25-37 teaches that each icon is from the set of standard features or only function indicators are displayed. A standard feature or indicator, however, is not the same as displaying a reference to *access each device* in the network.

4. The FOA (pages 4-8), and AA (page 3), further rejected independent claims 4-5, 8-9, 13-14, 18-19, 23-24, 28 and 30 under 35 U.S.C. §103(a), arguing that Hayes in view of Kemink meets limitations of the respective independent claims 1, 10 and 20 as asserted in the office action.

5. It is respectfully submitted that for at least the following reasons, the conclusions in said Office Actions regarding the teachings of Hayes in view of Kemink are: in error, inconsistent and lacking.

A. Kemink is directed to an Internet based service for updating a programmable control device, where an Internet site contains links to appliance-dependent control and feature option information that can be downloaded to the device as a graphic user interface (GUI). The user selects the device information from the Internet site. As such, Kemink teaches device information is obtained from a website not a device that is to be commanded and controlled as required by claims 1, 10 and 20. Even if the teachings of Hayes is combined with those of Kemink, the result would still not teach information is obtained from a *device* that is to be commanded and controlled as required claims 1, 10 and 20), and therefore, required by the respective dependent claims 4-5, 8-9, 13-14, 18-19, 23-24, 28 and 30.

B. Additionally, dependent claims 9, 18 and 28 require "the user interface includes *device data corresponding to each device based on the information obtained from each device*,

and wherein when *the one link in the user interface is user activated the activated link is used to access **the associated device and retrieve control interface description contained in the associated device** to generate and display a device user interface based on the retrieved control interface description*, for user interaction with that associated device” (emphasis added).

Kemink, however, fails to teach these limitations as Kemink simply discloses that the website 225, provided by appliance vendors 251-254 and third parties, provides the device control profile for the control devices (Kemink, Fig. 2, col. 5, lines 11-33). Therefore, it is clear that Kemink does not teach or suggest that the user interface includes data obtained from a device or that data is retrieved from the device since appliance vendors and third parties supply the device data.

6. For at least these reasons, Applicant believes that the claims are in condition for allowance. Reconsideration, re-examination, and allowance of all claims are respectfully requested. Applicant’s arguments of record are incorporated herein by reference, in further support of the arguments in this paper.

Respectfully submitted,

<u>/MZ/</u>	<u>04/29/2010</u>
Michael Zarrabian	Date
Registration No. 39,886	
Myers Andras Sherman LLP	
19900 MacArthur Blvd., Suite 1150	
Irvine, CA 92612	
(949) 223-9600	
(949) 223-9610 – Fax	
USPTO Customer No.: 23386	